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Remarks

The non-elected claims have been canceled and the limitations of former Claims 5 and 7 have been moved into Claim 1, with a limitation of Claim 1 moved to new dependent Claim 30. Also, Claims 4 and 10 rewritten in independent form albeit in the case of Claim 10, without the limitations of intervening Claim 8 and in the case of Claim 4, with greater specificity as to the use of the configuration information.

All previously pending claims (1, 2, and 4-13) have been rejected under 35 U.S.C. §103 as being unpatentable over Sayers, USPP 2005/0083882.

The rejections are traversed for being based on insufficient evidence. As KSR Int'l Co. v. Teleflex Inc., 127 S.Ct. 1727 (2007) makes clear, "rejections based on obviousness grounds cannot be based on mere conclusory statements", id. at 1741; "KSR provided convincing *evidence*" of obviousness, id. at 1731 (emphasis mine).

Claim 1

Of relevance to amended Claim 1 is the allegation starting on the last two lines of page 3 of the Office Action that adding a remote control as a relay node is a "well known method through which out-of-band communication may take place" and thus "constitutes a design choice rather than a patentable distinction."

Claim 1 as amended does not recite "relay" in a vacuum, and it does not recite "remote control" in a vacuum. Instead, the recited remote control is a relay node between two ports in a secondary communication system through which a specific type of information - configuration information - is exchanged.

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1. There is no evidence pointed to that a remote control has been taught as a relay node between two ports.

2. There is no evidence pointed to that a remote control has been used in the exchange of configuration information.

Because the finding of fact on which the rejection is based is supported by no evidence, the rejection is clear error under KSR.

Claim 4

Of relevance to Claim 4 is the allegation in the second full paragraph of page 3 of the Office Action that using "disk drives or smart card functionality, for example, to assist in the configuration process" is obvious because "such concepts are well known in the art of computing, such that disks may contain configuration information, for example".

Claim 4 does not recite "removable media drive" in a vacuum. Instead, Claim 4 requires a removable media drive and a media component removably engageable with the drive for the purpose of establishing a secondary communication system that is out-of-band with a primary system and that is used for exchange of configuration information useful in the primary system.

1. There is no evidence of record that a removable storage medium is used in connection with configuration information.

2. There is no evidence of record that a removable storage medium is used in a secondary communication system.

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3. There is no evidence of record that a removable storage medium is used in a secondary communication system for the express purpose of exchanging configuration information needed to communicate in a primary communication system.

Because the finding of fact on which the rejection is based is supported by no evidence of record, the rejection is clear error under KSR.

Claim 10

Of relevance to Claim 10 is the allegation in the third full paragraph of page 4 of the Office Action that pressing "a button on the component and server to exchange information" is "common in the art of information exchange".

Claim 10 does not recite "button" or "information exchange" in a vacuum. Instead, Claim 10 requires that *both* a distance criteria and a button press are required for something specific, namely, the exchange of configuration information over a secondary communication system. No evidence has been pointed to that a button, much less in cooperation with a distance, is used for anything, much less the particularly recited purpose.

The Examiner is cordially invited to telephone the undersigned at (619) 338-8075 for any reason which would advance the instant application to allowance.

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